

# SENATE . . . . . No. 1579

---

## The Commonwealth of Massachusetts

PRESENTED BY:

**Mr. Brewer**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act prohibiting criminals to profit from their personal belongings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mr. Brewer	Worcester, Hampden, Hampshire and Franklin
Michael R. Knapik	Second Hampden and Hampshire
Todd M. Smola	1st Hampden
Jennifer M. Callahan	18th Worcester
Bruce E. Tarr	First Essex and Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00805 OF 2007-2008.]

## **The Commonwealth of Massachusetts**

---

**In the Year Two Thousand and Nine**

---

### **AN ACT PROHIBITING CRIMINALS TO PROFIT FROM THEIR PERSONAL BELONGINGS.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1   SECTION 1. Chapter 258C of the General Laws is hereby amended by adding at the end thereof  
2   the following new section:

3           Section 14. (a) For the purposes of this section, the following words shall have the  
4   following meanings, unless the context clearly otherwise requires:

5           “Contracting party”, any person, firm, corporation, partnership, association or other  
6   private legal entity which contracts for, pays, or agrees to pay a defendant consideration which it  
7   knows or reasonably should know may constitute proceeds from a crime.

8           “Conviction”, a finding or verdict guilty or of not guilty by reason of insanity, a plea of  
9   guilty or a finding of sufficient facts to warrant a finding of guilty whether or not final judgment  
10   or sentence is imposed, or an adjudication of delinquency or of youthful offender status as  
11   defined in section 52 of chapter 119.

“Defendant”, a person who has been convicted of either a violation of Massachusetts law punishable by imprisonment in state prison, a violation of federal law committed in the commonwealth that is punishable by death or imprisonment for a term of more than 1 year, or any offense committed by a juvenile that would be punishable by imprisonment in state prison if the juvenile were an adult.

“Division”, the division of victim compensation and assistance within the department of the attorney general.

“Proceeds of the crime”, any assets, material objects, monies, and property obtained through the to the lease, sale or other transfer of any assets, tangible items or other property, the value of which is greater because of the defendant’s commission of his crime or his experience with the criminal judicial system or due to any notoriety attached to either from whatever source received by or owing to a defendant or his representative, whether earned, accrued, or paid before or after the disposition of criminal charges against the defendant.

“Victim”, any natural person who suffers direct or threatened physical, emotional, or financial harm as the result of the commission of a crime, or the estate, legal guardian, or other family members of such person if the person is a minor, incompetent or deceased.

(b) Any person, firm, corporation, partnership, association or private legal entity which contracts for, pays or agrees to pay a defendant or his representative consideration which it knows or reasonably should know may constitute proceeds of a crime shall, within 30 days of the agreement, submit to the division a copy of its contract or a summary of the terms of any oral agreement.

(c) If the provisions of subsection (b) are violated, the division may petition the superior court for an order of enforcement. Such action shall be brought in the county in which the contracting party resides or has his principle place of business, or in Suffolk county if the contracting party does not reside or have a principal place of business in the commonwealth. Upon a finding that a contracting party has violated subsection (b) the court shall, in addition to any other relief, impose on the contracting party a civil penalty of the value of the contract or agreement.

(d) The division, upon receipt of a contract or other agreement to pay a defendant, shall take reasonable steps to notify all known victims of the crime about the existence of the contract or agreement. Notification shall be made by certified mail to the victim's last known address. The division shall also provide legal notice in a newspaper of general circulation in the county in which the crime was committed to publicize the existence of proceeds related to the crime as it deems necessary.

(e) The division, acting on behalf of any victim, shall have the right to apply for any and all provisional remedies available under civil practice law and rules including, but not limited to, attachment, injunction, receivership and notice of pendency.

(f) Any action taken by a defendant, or his representative, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of this section shall be null and void.

SECTION 2. Section 2A of chapter 260 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- An

54 action in tort under section 14 of chapter 258C against a criminal defendant by a victim shall be  
55 tolled during any period of incarceration, parole or probation of a defendant for the crime  
56 committed against the victim of such crime.

57 SECTION 3. Chapter 276 of the General Laws is hereby amended by inserting after section 87A  
58 the following section:-

59       Section 87B. (a) Upon the request of the commonwealth or a victim, in connection with  
60 a victim impact statement, the sentencing judge shall, in addition to any other sentence imposed,  
61 impose on the defendant a term of probation for not less than the maximum sentence for the  
62 crimes the defendant has pled guilty to or been convicted. The terms of probation shall include,  
63 but not be limited to, a special condition that the defendant and his representatives or assignees  
64 are prohibited from earning a profit or otherwise benefiting financially relating to the lease, sale  
65 or other transfer of any assets, tangible items or other property, the value of which is greater  
66 because of the defendant's commission of his crime or his experience with the criminal judicial  
67 system or due to any notoriety attached to either, and that any action taken by the defendant to  
68 avoid compliance with this condition of probation shall be considered a violation of the  
69 defendant's probation conditions.

70       (b) Upon the request of the commonwealth or a victim in connection with a victim impact  
71 statement, the sentencing judge shall, in addition to any other sentence imposed, make an order  
72 for restitution to a victim for not less than the amount of any profit or financial benefit relating to  
73 the lease, sale or other transfer of any assets, tangible items or other property, the value of which  
74 is greater because of the defendant's commission of his crime or his experience with the criminal  
75 judicial system or due to any notoriety attached to either.